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SHAHID BUTTAR FOR CONGRESS COMMITTEE and
SHAHID BUTTAR

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHAHID BUTTAR FOR CONGRESS
COMMITTEE and SHAHID BUTTAR, an
individual;

Plaintiffs,

vs.

HEARST COMMUNICATIONS, INC., a
Delaware corporation; and DOES 1
through 5;

Defendants.

CASE NO.: 3:21-cv-05566-EMC

**JOINT RULE 26(F) REPORT AND CASE
MANAGEMENT STATEMENT**

JUDGE: Hon. Edward M. Chen

I. PLAINTIFFS' CASE MANAGEMENT CONFERENCE STATEMENT

Introductory Statement. Plaintiffs Buttar for Congress Committee and Shahid Buttar (collectively, the "Buttar Parties") filed their Complaint on July 20, 2021, and personally served the Summons and Complaint on Oct. 12, 2021.

The Parties began their Rule 26(f) Conference on Oct. 28, 2021 and concluded their discussion on Nov. 17, 2021. Defendant Hearst Communications, Inc. ("Hearst") stated that it would file a Special Motion to Strike pursuant to California's Anti-SLAPP statute; and the Parties agreed, *inter alia*, to stipulate to additional briefing time with respect to Defendant Hearst's

1 contemplated motion. That stipulation will be filed this week.

2 The Buttar Parties now submit the following 26(f) Report and Initial Case Management
3 Statement:

4
5 1. **Jurisdiction and Service.** This Court has jurisdiction over this action pursuant to
6 28 U.S.C. §1332 (diversity jurisdiction), because Defendant Hearst is a foreign
7 corporation. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391,
8 because Defendant Hearst, in its capacity as owner of the *Chronicle*, is subject to
9 personal jurisdiction in this district.

10 2. **Facts**

11 *Profile of Mr. Buttar.* Plaintiff Shahid Buttar is a constitutional lawyer,
12 legal advocate, nonprofit leader, community organizer, poet, and musician.

13 An early advocate for LGBTQ marriage equality and a longtime advocate
14 for civil liberties, Mr. Buttar worked over the previous 15 years for nonprofit
15 organizations including the Electronic Frontier Foundation (EFF), Bill of Rights
16 Defense Committee (now known as Defending Rights and Dissent), Muslim
17 Advocates, and the American Constitution Society (ACS).

18 A British immigrant of Pakistani descent, Mr. Buttar grew up in the
19 Midwest. He first came to the Bay Area in 2000 to study law at Stanford Law
20 School, from which he received his law degree in 2003. In 2020, Mr. Buttar
21 became the first Democrat to challenge U.S. House of Representatives Speaker
22 Nancy Pelosi in a general election.

23 *Defendant Hearst's Wrongdoing.* On July 22, 2020, the San Francisco
24 *Chronicle* published an article (the "Article") in its print edition. The Article
25 contained a false allegation, made by a person named Elizabeth Croydon in a self-
26 published essay, that Mr. Buttar had committed sexual harassment.

27 The *Chronicle* published the Article after refusing to contact individuals
28 who would have provided details of Ms. Croydon's history of lobbying false

1 allegations against a federal candidate and other political activists.

2 For example, according to Dr. Margaret Flowers, M.D., Ms. Croydon
3 falsely accused Dr. Flowers' husband Kevin Zeese of sexual assault in 2006, the
4 same year he was a Maryland candidate for the U.S. Senate.

5 On July 23, 2020 (one day after the Article was published), the *Intercept*
6 covered Ms. Croydon's allegations – and expressly stated that a number of
7 individuals had questioned Ms. Croydon's credibility: "The *Intercept* has spoken
8 to several people who recounted having disturbing interactions with Croydon that
9 caused them to question her credibility."¹

10 The next day (July 24, 2020), the *Independent Political Report* published
11 an open letter, in which 17 individuals expressed deep concern regarding Ms.
12 Croydon's credibility and described her history of false allegations against
13 political activists.²

14 The next day (July 25, 2020), the *Chronicle* published a follow-up piece
15 (the "Follow Up Piece") regarding Ms. Croydon's allegations. Although it quoted
16 individuals who defended Mr. Buttar's ethics and integrity, the Follow-Up Piece
17 was misleading in two major ways. *First*, it portrayed those individuals as Mr.
18 Buttar's friends, when they are fiercely independent political activists.

19 *Second*, even though the reporter (Joe Garofoli) had been apprised that Ms.
20 Croydon had a long history of false accusations against political activists, the
21 Follow-Up Piece failed to disclose that highly relevant history to *Chronicle*
22 readers.

23 As a direct result of the *Chronicle*'s publication of Ms. Croydon's false
24

25 ¹ Akela Lacy, *Intercept*, July 23, 2020 "Shahid Buttar's Bid to Unseat Nancy Pelosi Roiled
26 by Staff Mistreatment", available at [https://theintercept.com/2020/07/23/shahid-buttar-campaign-](https://theintercept.com/2020/07/23/shahid-buttar-campaign-allegations/)
[allegations/](https://theintercept.com/2020/07/23/shahid-buttar-campaign-allegations/) (last visited July 17, 2021).

27 ² "DC Activists Support Shahid Buttar, Call Accuser Troubled Person with History of
28 Accusations" (italics added), *Independent Political Report*, July 24, 2020, available at
[https://independentpoliticalreport.com/2020/07/dc-activists-support-shahid-buttar-call-accuser-](https://independentpoliticalreport.com/2020/07/dc-activists-support-shahid-buttar-call-accuser-troubled-person-with-history-of-false-accusations/)
[troubled-person-with-history-of-false-accusations/](https://independentpoliticalreport.com/2020/07/dc-activists-support-shahid-buttar-call-accuser-troubled-person-with-history-of-false-accusations/) (last visited July 17, 2021).

allegation, Mr. Buttar and his campaign were inflicted with grievous harm to their reputations. The false allegations in the Article recklessly and unjustly smeared Mr. Buttar's ethics and integrity, harmed his professional livelihood and personal relationships, slashed his speaking and writing opportunities, and gravely damaged the public's perception of his fitness to hold political office.

3. Legal Issues. The Buttar Parties anticipate that Defendant Hearst will dispute the entirety of their claims for (1) Defamation at Common Law and Cal. Civ. Code §45 (Libel), and (2) Violation of Cal. Bus. & Prof. Code §§17200, et seq.

4. Motions. Defendant Hearst intends to file a Special Motion to Strike pursuant to California's Anti-SLAPP statute. The Buttar Parties reserve the right to file all appropriate motions.

5. Amendment of Pleadings. The Buttar Parties reserve the right to seek leave to amend their Complaint.

6. Evidence Preservation. The Buttar Parties confirm that their counsel has reviewed the Guidelines Relating to the Discovery of Electronically Stored Information ("ESI Guidelines"). The Buttar Parties further confirm that they have undertaken steps to preserve evidence relevant to the issues reasonably evident in this action.

7. Disclosures. The Parties will make their initial disclosures 20 days after the Case Management Conference is held.

8. Discovery. The Buttar Parties will propound discovery shortly.

9. Class Actions. Not applicable.

10. Related Cases. Not applicable.

11. Relief. As set forth in their Complaint, the Buttar Parties seek the following relief:

I. Damages, including general and special damages, in an amount to be determined at trial;³

³ Buttar for Congress and Mr. Buttar reserve the right to seek punitive damages at the appropriate time.

- II. Prejudgment interest;
- III. An order requiring (a) the retraction of all Ms. Croydon's defamatory allegations that were published in the *Chronicle*, and (b) a public apology from the *Chronicle*.
- IV. An injunction requiring Defendant Hearst to cease engaging in unfair competition;
- V. Costs and attorney's fees to the extent provided for by law; and
- VI. All other relief that the Court deems just and equitable.

12. Settlement and ADR. The Buttar Parties are amenable to mediation, but not to any other form of ADR.

13. Consent to Magistrate Judge for All Purposes. The Buttar Parties are not amenable to stipulating to a Magistrate Judge.

14. Other References. The Buttar Parties do not believe that this case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues. The Buttar Parties do not believe that any issues can be narrowed at this time.

16. Expedited Trial Procedure. The Buttar Parties do not believe that this case can be handled under the Expedited Trial Procedure of General Order No. 64, Attachment A.

17. Scheduling. The Buttar Parties propose a deadline of Aug. 2, 2022 for designation of experts; June 1, 2023, discovery cutoff; June 15, 2023, last day to file dispositive motions; Sept. 12, 2023, Pretrial Conference; Sept. 26, 2023, Trial.

18. Trial. The Buttar Parties seek a jury trial, and estimate that it will require 5-7 days.

19. Disclosure of Non-Party Interested Entities or Persons. The Buttar Parties will file a Certification of Interested Entities or Persons.

20. Professional Conduct. Counsel for the Buttar Parties has reviewed the

Guidelines for Professional Conduct for the Northern District of California.

21. The Buttar Parties are not aware of other matters that may facilitate the just, speedy, and inexpensive disposition of this matter.

II. DEFENDANT'S CASE MANAGEMENT CONFERENCE STATEMENT

1. Jurisdiction & Service

The basis for the court's subject matter jurisdiction over plaintiff's claims and defendant's counterclaims, whether any issues exist regarding personal jurisdiction or venue, whether any parties remain to be served, and if any parties remain to be served, a proposed deadline for service.

The parties believe this Court has appropriate subject matter jurisdiction in this proceeding under 28 U.S.C. §1332 (diversity jurisdiction), and that venue is proper in this judicial district pursuant to 28 U.S.C. §1391. Defendant has been served.

2. Facts

A brief chronology of the facts and a statement of the principal factual issues in dispute.

In July 2020, Plaintiff Shahid Buttar was a candidate for the U.S. House of Representatives, seeking election in the November 2020 general election to California's 12th Congressional District seat. On July 21, 2020, the San Francisco Chronicle, a Hearst Communications, Inc. newspaper (hereinafter, "Hearst"), published an article reporting on allegations of sexual harassment by Buttar made by a one-time acquaintance of the candidate. The article included a statement from Buttar denying the allegations, and reported on the public reaction to the allegations from some of Buttar's previous political supporters. On July 24, 2020, Hearst published an article reporting on further public reaction to the allegations, including an open letter from several supporters of Buttar and including interviews from several Buttar supporters. At or around the same time as Hearst's reporting on the allegations, several other news outlets also reported on the same allegations.

Neither Buttar nor his campaign committee demanded a correction of either article published by Hearst. Nevertheless, on July 20, 2021, Plaintiffs filed this lawsuit alleging they were defamed by Hearst's publication of articles about this matter of public interest about a candidate for elected office.

Defendant's full statement of facts and defenses will be set forth in further filings.

1 **3. Legal Issues**

2 *A brief statement, without extended legal argument, of the disputed points of law, including reference to specific*
 3 *statutes and decisions.*

4 The key legal issue in dispute is whether Plaintiff is entitled to recovery for alleged
 5 defamation due to Defendant's publication of news articles regarding allegations of sexual
 6 harassment made against Plaintiff Buttar, then a candidate for federal elected office.

7 **4. Motions**

8 *All prior and pending motions, their current status, and any anticipated motions.*

9 There are currently no prior or pending motions in this matter. Defendant anticipates filing a
 10 special motion to strike the Complaint under California's anti-SLAPP statute, Cal. Code Civ. P. §
 11 425.16.

12 **6. Evidence Preservation**

13 *A brief report certifying that the parties have reviewed the Guidelines Relating to the Discovery of Electronically*
 14 *Stored Information ("ESI Guidelines"), and confirming that the parties have met and conferred pursuant to Fed. R.*
 15 *Civ. P. 26(f) regarding reasonable and proportionate steps taken to preserve evidence relevant to the issues*
 16 *reasonably evident in this action. See ESI Guidelines 2.01 and 2.02, and Checklist for ESI Meet and Confer.*

17 By signature of their respective counsel below, the Parties hereby certify that they have
 18 reviewed the Guidelines Relating to the Discovery of Electronically Stored Information and
 19 confirm that they have met and conferred pursuant to Fed. R. Civ. P. 26(f) regarding reasonable
 20 and proportionate steps taken to preserve evidence relevant to the issues reasonably evident in
 21 this action. The parties further agree that this is not a document-intensive case where ESI is
 22 expected to be an issue.

23 **7. Disclosures**

24 *Whether there has been full and timely compliance with the initial disclosure requirements of Fed. R. Civ. P. 26*
 25 *and a description of the disclosures made.*

26 The parties agree to serve their respective initial disclosures by no later than December 15,
 27 2021.

28 **8. Discovery**

Discovery taken to date, if any, the scope of anticipated discovery, any proposed limitations or
 modifications of the discovery rules, a brief report on whether the parties have considered entering into
 a stipulated e-discovery order, a proposed discovery plan pursuant to Fed. R. Civ. P. 26(f), and any
 identified discovery disputes.

 The parties have not engaged in any discovery to date. At this time, the parties do not
 propose any limitations or modifications of the discovery rules, but each may later ask to raise

that issue with the Court if it becomes necessary. There are no current discovery disputes. The parties agree that an e-discovery order is not necessary at this time. If an e-discovery order becomes necessary, the parties will submit a proposed order for the Court's approval.

9. Class Actions

If a class action, a proposal for how and when the class will be certified.

This case is not a class action.

10. Related Cases

Any related cases or proceedings pending before another judge of this court, or before another court or administrative body.

None.

11. Relief

All relief sought through complaint or counterclaim, including the amount of any damages sought and a description of the bases on which damages are calculated. In addition, any party from whom damages are sought must describe the bases on which it contends damages should be calculated if liability is established.

Defendant denies that Plaintiffs are entitled to any relief sought through their Complaint.

Defendant has not alleged any counterclaims against Plaintiff.

12. Settlement and ADR

Prospects for settlement, ADR efforts to date, and a specific ADR plan for the case, including compliance with ADR L.R. 3-5 and a description of key discovery or motions necessary to position the parties to negotiate a resolution.

Both parties have submitted the ADR Certifications required by L.R. 3-5 indicating that they wish to discuss ADR plans at the Case Management Conference.

13. Consent to Magistrate Judge For All Purposes

Whether all parties will consent to have a magistrate judge conduct all further proceedings including trial and entry of judgment. ____ YES X NO

14. Other References

Whether the case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

This case is not suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues

Issues that can be narrowed by agreement or by motion, suggestions to expedite the presentation of evidence at trial (e.g., through summaries or stipulated facts), and any request to bifurcate issues, claims, or defenses.

Defendants do not believe there are any issues that can be narrowed at this time.

16. Expedited Trial Procedure

Whether this is the type of case that can be handled under the Expedited Trial Procedure of General Order 64 Attachment A. If all parties agree, they shall instead of this Statement, file an executed Agreement for Expedited Trial and a Joint Expedited Case Management Statement, in accordance with General Order No. 64, Attachments B and D.

The parties do not believe that this is the type of case that can be handled under the Expedited Trial Procedure of General Order 64 Attachment A.

17. Scheduling

Proposed dates for designation of experts, discovery cutoff, hearing of dispositive motions, pretrial conference and trial.

EVENT	PROPOSED SCHEDULE
Initial Disclosures	December 15, 2021
Close of fact discovery	August 19, 2022

18. Trial

Whether the case will be tried to a jury or to the court and the expected length of the trial.

The case will be tried to the court. The parties estimate the trial will take two to three days.

19. Disclosure of Non-party Interested Entities or Persons

Whether each party has filed the "Certification of Interested Entities or Persons" required by Civil Local Rule 3-15. In addition, each party must restate in the case management statement the contents of its certification by identifying any persons, firms, partnerships, corporations (including parent corporations) or other entities known by the party to have either: (i) a financial interest in the subject matter in controversy or in a party to the proceeding; or (ii) any other kind of interest that could be substantially affected by the outcome of the proceeding. In any proposed class, collective, or representative action, the required disclosure includes any person or entity that is funding the prosecution of any claim or counterclaim.

Pursuant to L.R. 3-15, Defendant filed a Certification of Interested Entities or Persons on November 22, 2021.

Defendant certifies that no third parties are funding any claim or counterclaim brought by it in this action.

1
2 **20. Professional Conduct**

3 *Whether all attorneys of record for the parties have reviewed the Guidelines for Professional Conduct for the*
4 *Northern District of California.*

5 All attorneys of record for the parties have reviewed the Guidelines for Professional Conduct
6 for the Northern District of California.

7 **21. Other**

8 *Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter.*

9 The parties have no other matters to report at this time.

10 Dated: November 23, 2021

HEARST CORPORATION

11 By: /s/ Thomas R. Burke
12 THOMAS R. BURKE

13 Attorney for Defendant
14 Hearst Communications, Inc.

15 Dated: November 23, 2021

16 BUSINESS, ENERGY, AND ELECTION
17 LAW, PC

18
19 By: /s/ Gautam Dutta

20 GAUTAM DUTTA, ESQ.
21 Attorneys for Plaintiffs
22 SHAHID BUTTAR FOR CONGRESS
23 COMMITTEE and SHAHID BUTTAR
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ATTESTATION

I, Gautam Dutta, am the ECF user whose ID and password are being used to file this Joint Case Management Statement. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that Counsel for Defendant Hearst Communications, Inc. has concurred in this filing.

Dated: November 23, 2021

By: /s/ Gautam Dutta